

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

FRANKLIN ROOSEVELT MCGEE,)	
)	
Movant,)	
)	
VS.)	No. 16-1111-JDT-egb
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER DENYING MOTION FOR IMMEDIATE HEARING OR RELEASE
AND DIRECTING THE PARTIES TO FILE BRIEFS

The Movant, Franklin Roosevelt McGee, filed a motion pursuant to 28 U.S.C. § 2255 on May 19, 2016, seeking to vacate or correct his sentence. (ECF No. 1.) McGee also filed a motion for an immediate hearing or, in the alternative, for release on his own recognizance. (ECF No. 2.) McGee contends that, pursuant to the decision in *Johnson v. United States*, 135 S. Ct. 2551 (2015), he has fully served his sentence and is entitled to be released. The Government filed a response on June 9, 2016. (ECF No. 7.) In that response, the Government indicated that it does not concede that the decision in *Johnson* will result in the setting aside of McGee’s enhanced sentence under 18 U.S.C. § 924(e). (*Id.* at 2.)

On June 22, 2016, in accordance with the procedure established in Administrative Order 2016-21, the U.S. Probation Officer assigned to this case submitted a memorandum to the Court and the parties containing her assessment of *Johnson*’s applicability to McGee’s

prior convictions. The Court finds the issues as set forth in that memorandum should be briefed by the parties before it is determined whether a hearing is necessary in this § 2255 proceeding.

It is ORDERED that the Movant shall file a brief addressing the Probation Officer's assessment and any other relevant matters within twenty-one (21) days after the date of this order, and the Government shall file a brief within twenty-one (21) days after service of Movant's brief. Movant may file a reply within seven (7) days after service of the Government's brief.

IT IS SO ORDERED.

s/ **James D. Todd**
JAMES D. TODD
UNITED STATES DISTRICT JUDGE